



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

MARCH 25, 2008

PRESENT: Acevedo, Koepp-Baker, Davenport, Escobar, Mueller, Tanda

ABSENT: None

LATE: None

STAFF: Community Development Director (CDD) Kathy Molloy Previsich,
Planning Manager (PM) Rowe, and Minutes Clerk Johnson
Also present: Consultant to the Planning Department, David Bischoff

Chair Escobar called the meeting to order at 7:00 p.m., inviting all present to join in pledge of allegiance to the US flag.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Escobar opened the public hearing.

With no one present indicating a wish to address matters not appearing on the agenda, the public hearing was closed.

MINUTES:

January 29, 2008

COMMISSIONERS MUELLER/KOEPP-BAKER MOTIONED TO APPROVE THE JANUARY 29, 2008 MINUTES AS PERSENTED. THE MOTION CARRIED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT; THERE IS ONE VACANCY.

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PUBLIC HEARING:

1) **DAA-06-02B/**
DSA-07-14:
SAN PEDRO-
ALCINI

A request to amend the development agreement to allow a 12-month extension to 4 building allocations for FY2007-08. The request is also for an amendment to the development schedule to allow for appropriate scheduling of required applications.

PM Rowe presented the staff report, noting that while the applicant has been very diligent in obtaining the required approvals for this 12-unit residential development, with the project scheduled for review by the ARB at the April 3, 2008 meeting. However, the applicant is behind the currently approved development schedule as there should have been four building permits pulled by March 30, 2008 and the 'Commence Construction' segment was slated to begin for June 30, 2008, PM Rowe explained. However, a new developer has taken the responsibility for the project. A letter, earlier distributed to the Commissioners, explained the significant changes to the architectural and site design causing the need for more time to obtain required approvals and start production. "Additionally," PM Rowe stated, "the common factor of the economic slowdown which has impacted the housing markets is a reason for this request."

PM Rowe went on to say that the applicant has asked for the following adjustment to the originally set **development schedule**:

<u>Final Map Submittal</u>	<u>Submit Building Permit</u>	<u>Obtain Building Permits</u>	<u>Commence Construction</u>
FY 2007-08 4 units 1-30-08	FY 2007-08 4 units 1-15-08	FY 2007-08 4 units 3-30-08	FY 2007-08 4 units 6-30-08
FY 2008-09 8 units 1-30-09	FY 2008-09 8 units 1-15-09	FY 2008-09 8 units 3-30-09	FY 2008-09 8 units 6-30-09
Proposed: FY 2008-09 (12 units) 10/31/08	Proposed: FY 2008-09 (12 units) 12/31/08	Proposed: FY 2008-09 (12 units) 3/31/09	Proposed: FY 2008-09 (12 units) 6/30/09

PM Rowe noted that adjustments were requested for the **development agreement** being requested in accordance with the modifications requested for the development schedule:

<u>Commence Construction</u>
FY 2007-08 4 units 6-30-08
FY 2008-09 8 units 6-30-09
Proposed: FY 2008-09 (12 units) 6/30/09

Chair Escobar opened the public hearing.

John Moniz, 1475 Saratoga Ave., San Jose, was present to represent the applicant, Pinn Brothers. Mr. Moniz said the applicant was especially interested in 'paying special attention to the designs' and had been spending time doing just that.

Commissioner Mueller asked if the applicant perceived any difficulty in obtaining

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funding for either of the two projects (agenda items 1 and 2)? Mr. Moniz said, "No, we are aware of other developers having financing difficulty, but because these are multi-family units, we have not experienced that reluctance that builders of single family homes have encountered. We think we will not have difficulty being ready to go next year."

With no others present to speak to the matter, the public hearing was closed.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT (DAA-06-02) ALLOWING FOR A 12-MONTH EXTENSION OF THE COMMENCEMENT OF CONSTRUCTION DATE FOR 4 ALLOCATIONS RECEIVED FOR FISCAL YEAR 2007-08, INCLUSIVE OF THE FINDINGS AND CONDITIONS WITHIN THE RESOLUTION. COMMISSIONER KOEPP-BAKER SECONDED THE MOTION, WHICH PASSED (6-0) BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, MUELLER, TANDA; NOES: NONE; ABSTAIN: DAVENPORT; ABSENT: NONE. [One vacancy exists]

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING THE DEVELOPMENT SCHEDULE AMENDMENT (DSA-07-14) FOR FY 2007-08 BUILDING ALLOCATIONS AWARDED TO APPLICATION MC-04-17: SAN PEDRO-ALCINI. NOTING THE FINDINGS AND CONDITIONS WITHIN THE RESOLUTION, COMMISSIONER KOEPP-BAKER SECONDED THE MOTION, WHICH PASSED (6-0) BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, MUELLER, TANDA; NOES: NONE; ABSTAIN: DAVENPORT; ABSENT: NONE. [One vacancy exists]

2) DAA-07-01/ DSA-07-13: MONTEREY-ALCINI A request to amend the development agreement to allow a 12-month extension to 27 building allocations for FY2007-08 (total project 32 units). The request is also for an amendment to the development schedule to allow for appropriate scheduling of required applications.

PM Rowe said this second request by the Pinn Brothers was for a project approved by the City Council in 2006, with the Planning Commission approving the subdivision application for the 32-unit mixed-use project in January, 2008. "Like the previous request, this is one where the Pinn Brothers took over the project and have worked diligently to make progress," P.M. Rowe said. The adjusted time frames being requested were listed as:

<u>Final Map Submittal</u>	<u>Submit Building Permit</u>	<u>Obtain Building Permits</u>
10-31-08 10/31/08	12-31-07 12/31/08	3-31-08 3/31/09

for the **development schedule** and

<u>Commence Construction</u>
6-30-08 6/30/09

for the amended **development agreement**.

Chair Escobar opened the public hearing.

Mr. Moniz offered to answer questions.

With none present indicating a wish to speak to the matter, the public hearing was closed.

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COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING THE DEVELOPMENT SCHEDULE AMENDMENT (DSA-07-14) FOR BUILDING ALLOCATIONS FY 2007-08 AWARDED FOR TO APPLICATION MC-05-05: MONTEREY-ALCINI. NOTING THE FINDINGS AND CONDITIONS WITHIN THE RESOLUTION, COMMISSIONER KOEPP-BAKER SECONDED THE MOTION, WHICH PASSED (6-0) BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, MUELLER, TANDA; NOES: NONE; ABSTAIN: DAVENPORT; ABSENT: NONE. [One vacancy exists]

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT (DAA-07-10A) FOR APPLICATION MC-05-05: MONTEREY ALCINI ALLOWING FOR A 12-MONTH EXTENSION OF THE COMMENCEMENT OF CONSTRUCTION DATE FOR 27 ALLOCATIONS RECEIVED FOR FISCAL YEAR 2007-08, INCLUSIVE OF THE FINDINGS AND CONDITIONS WITHIN THE RESOLUTION. COMMISSIONER KOEPP-BAKER SECONDED THE MOTION, WHICH PASSED (6-0) BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, MUELLER, TANDA; NOES: NONE; ABSTAIN: DAVENPORT; ABSENT: NONE. [One vacancy exists]

DISCUSSION:

SOUTHEAST QUADRANT AND AGRICUL- TURAL MITIGATION POLICIES

Request to have the Planning Commissioners review the materials distributed, conduct a public hearing, and formulate a recommendation to the City Council regarding content of General Plan amendment for agricultural mitigation program, southeast quadrant (SEQ) urban limit line, and sports-recreation-leisure land use designation in SEQ

CDD Molloy Previsich indicated the City Council has directed staff to develop a set of General Plan amendments on this topic and has asked the Planning Commissioners to provide recommendations for the special meeting of the Council April 30, 2008. CDD Molloy Previsich listed the components of the Amendment study:

- Urban Limit Line for SEQ
- Ag Preservation and Mitigation Policies/Program
- Potential Ag General Plan Land Use Designation
- Possible Sports-Recreation-Leisure Land Use Designation in SEQ
- Potential new sports-recreation-leisure land use (SRL Theme) Zoning District for some of the SEQ

CDD Molloy Previsich and Consultant Bischoff presented the staff report, indicating the resultant Plan had an anticipated finalization date Spring of 2009.

Commissioner Acevedo asked for clarification of the Williamson Act properties in the SEQ.

Commissioner Tanda asked, "What is achieved by preserving land that is currently in ag use? One seldom creates new ag land even in mitigation." Consultant Bischoff explained that there are jurisdictions which believe preserving existing ag land is not acceptable mitigation for the loss of other ag land citing the proposal for mitigation that the City of San Jose had proposed for Coyote Valley. "However, CEQA says the preservation of ag land is

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an acceptable mitigation rule rather than the exception,” Consultant Bischoff said.

Commissioner Tanda asked that information be provided to the Commissioners as to the number of cities in California which have an ag mitigation program. Further discussion of Santa Clara County LAFCo’s policy of mitigation ensued.

Chair Escobar opened the public hearing.

Michelle Beasley, representative of the Greenbelt Alliance, 631 Howard St., Suite 510, San Francisco, referenced the letter from the Alliance which had been distributed in the packet.

Ms. Beasley asked the Commissioner leaving the SEQ out of the urban growth boundary.

Ms. Beasley shared information about news articles highlighting local produce, as part of the ‘slow food movement’ and suggested the SEQ is an excellent location for ‘working farms’.

R. Brian Gardiner, 5696 Venado Court, San Jose, thanked the Greenbelt Alliance for support of the farm to table program. Mr. Gardiner explained that he is a retired organic farmer and has set his goal of working to get as much land kept in ag as possible. “The average piece of food on your plate has traveled 1 – 2,000 miles before it got there. The cost of food goes up daily due to increased cost of petroleum products, with wheat and corn prices rising daily. In 1999 the US became the net importer of food in the world. California imports 49% of its food. Mr. Gardiner went on to speak for some minutes regarding the ‘main issue: having the maximum amount of farms near the urban edge’.

Responding to a question from Commissioner Acevedo, Mr. Gardiner told the Commissioners that he now farms in Hollister, but started in the Willow Glen area of San Jose on two acres (utilizing four people’s back yards).

Eric Carruthers (no address provided) advised he lived in San Jose but felt a ‘real connection with Morgan Hill because, as a Santa Clara County Planning Department employee, he had worked on the first Morgan Hill General Plan’. Mr. Carruthers explained that the City of San Jose had found the loss of ag land could not be mitigated so chose to adopt a statement of overriding considerations through the CEQA process. He went on to say that San Jose, when doing planning for the Coyote Valley area, ascertained some mitigations possible, so the City was ‘doing both’. Mr. Carruthers said that 16 cities in the South Bay were providing mitigation in the Central Valley at a cost of about \$2,000 an acre. Mr. Carruthers urged the adoption of an ‘ag mitigation program that provides a maximum amount of dollars for ag mitigation’. He told of the need for a greenbelt between Morgan Hill and San Martin, and then declared, “Preservation of ag lands is essential.” Mr. Carruthers stated objection to the methodology of ag mitigation in the staff report, urging the need spend Morgan Hill dollars wisely. “I think the difficulty in the scoring proposed for the LESA Model is that it lets too many properties slip through the net,” Mr. Carruthers said. He then told of the difficulty with the scoring methodology (as he saw it) and urged reexamination of the process. Concluding, Mr. Carruthers said, “This is a very complex item before the Commissioners with so many decisions within the same package, it is hard to untangle them.”

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Craige Edgerton (no address provided) told the Commissioners he is the Executive Director of the Silicon Valley Land Conservancy. Mr. Edgerton said he had much experience with matters of this sort, and commended Planning Staff and the City for considering the presented recommendation. Mr. Edgerton said the City needs to be aware in working through the cost of easements purchase that State and Federal matching money can be available. He added that the current Federal Farm Bill places 'higher emphasis on healthy food' and may provide more money for local ag preservation. Mr. Edgerton went on to say that the administrative cost associated with acquiring an easement can be as much as the cost of the easement itself. With the worldwide cost of grain rising so rapidly, Mr. Edgerton said that ranchers are buying farms south of Gilroy to raise grain for their cattle. Concluding, Mr. Edgerton said, "We are a private non-profit willing to assist."

Fran Chiala Lauridsen, 2880 Tennant Ave., told the Commissioners she was representing the Chiala family. "I have lived on the southeast quadrant since I don't remember when. It is a special piece of property with the Kodak house on it. We (the six members of the Chiala family) have been working with a development plan to keep the Kodak house as a historic site to maintain the beauty of the site. Ms. Lauridsen said, "For us, ag is not profitable and cannot be maintained. We need to have the whole estate work together in order to maintain the historic part." For Clarification, Commissioner Mueller asked Ms. Lauridsen, if the family's intent was to maintain the historic home site. "Yes, but we need to have an income stream that is separate from what we could do with ag," she agreed.

Andy Mariani, 1615 Half Road, told the Commissioners that his family owns several parcels north of Live Oak High School where a potential site for ag mitigation has been identified. "We have tried all the modern strategies to produce income on that land," Mr. Marianai said, "including marketing locally and trying different products. The strategies have resulted in the family losing money. You've heard that the difference between a dirt farmer and a gentlemen farmer is that the gentleman farmer has other sources of income. I'm a dirt farmer." Mr. Mariani went on to say that his family has considered selling part of the land so they can farm the remaining portions longer.

Bill Chiala, 16860 Gallup Dr., said he lives in Morgan Hill and is fortunate to farm some of the best land in the world - in Salinas. "That is the only way can survive. That's where farming is happening. I would like you to know how tough it is to farm here." Mr. Chiala went on to speak of higher quality soils in nearby areas and the difficulty of maintaining farming operations in marginal areas. "I do think we would be interested in a volunteer plan for sale of part of the farm and keep the rest as recreation. We could reach a 'happy medium'. You need to consider a volunteer plan from the owners," Mr. Chiala said.

Julie Borina Driscoll, % PO Box 3750, Saratoga, said she was having a difficult time reconciling all this talking about ag use in the southeast quadrant. "You are destined to get recreation in that area. You have the opportunity to go for dollars. Yes, we have to eat, and farmland needs to be respected but not here in Morgan Hill," Ms. Borina Driscoll declared. She then said, "You have a historical site, you have the Math institute. You need to capitalize on these assets in order to maximize the benefits to the community."

Rich Bottarini, 11 Veressa Ct, W. Napa, said he was present to follow-up on a letter previously submitted by Craiker Associates regarding language for a Sports-Recreation-Leisure District. Mr. Bottarini reiterated the points he made in the letter. Mr. Bottarini said

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he was a former Planning Director, and told the Commissioners the importance of flexibility in language used in the ordinance.

Mr. Carruthers returned to the podium to inquire for clarification about the relationship of ag land mitigation and the General Plan amendment. CDD Molloy Previsich said the objective was to come up with a project description for the General Plan amendment that would be evaluated in the EIR. She further explained the EIR would flush out some significant effects with key alternatives identified. Mr. Carruthers asked the expected outcome of the discussion at this meeting. Chair Escobar said the Commission and staff's intents were to launch discussion at this meeting. "If we need to have another session, we will do so before the matter goes to the City Council."

Charryn Perrier, 15795 Ellis Dr., indicated her house 'backs backs up to ag land'. "We were told when we bought there, that ag would never be sold. Now you are talking about recreational land up to my home. Such uses would adversely impact my property.

With no others present and indicating a wish to speak to the matter, the public hearing was closed.

Chair Escobar commented, "This is a complex issue with many things to be dealt with, and the need for more information to be gathered and absorbed by the Commissioners." He indicated that it might be better to continue discussion at this meeting, but have the matter continue before a decision could be made.

Chair Escobar reiterated the several alternatives for land use and ag mitigation, and asked staff to comment as to why they feel each to be optimal. CDD Molloy Previsich responded that the staff recommendation was 'trying to marry economic development, community identity, and the greenbelt creation. We focused on the sports, recreation, leisure component because the activity is already occurring there. She then spoke on the community value and public use of the sports recreation facilities in the SEQ, noting the acres for travelers coming from 101. CDD Molloy Previsich also mentioned the planned private high school which will ultimately have an enrollment of 1,600 students with 'fairly intensive uses of sports fields and facilities'. CDD Molloy Previsich noted that ag mitigation focuses on preservation of the most viable ag area, namely the Chiala lands. In this area, preservation can also serve as a buffer between Morgan Hill and San Martin.

Commissioner Acevedo led discussion with reference to the proposed incorporation of San Martin which, if approved, will cause the new city to have a coterminous SOI and city limit line. Commissioner Acevedo asked if the City should consider expanding its sphere of influence to include part of the San Martin area. CDD Molloy Previsich reminded that this is not a SOI study and is not under consideration at this time.

Commissioner Mueller suggested the freeway frontage area is the most valuable for generating funds for the City and should be retained for freeway dependent uses. He further suggested that SRL uses be feathered to the east, with much of it as interim use until a definitive alternate use is identified; 'classic example: golf driving range off Highway 85 in San Jose is now five-story apartment buildings.

CDD Molloy Previsich responded, referencing the prepared map with the area within the

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pink line being the revenue generating area(s). “The idea,” she said, “is to create agglomerate and put more intensive uses near the freeway. There are other areas within the City to have for other purposes.”

Chair Escobar and Commissioner Mueller agreed there are vacant parcels of land in other parts of City, but not at the freeway exchanges.

Chair Escobar commented that this is complicated topic. CDD Molloy Previsich advised that the intent of this meeting is to have the materials presented so that the Commissioners will have the opportunity to ask questions and digest the materials.

Commissioner Davenport asked, “Why do we have to worry about ag mitigation at all? When I got the packet and began reading this great magnitude of information, I thought, ‘what am I looking at with all the mitigation opportunities? I’m still trying to grasp why the City is compelled to come up with a program when other cities don’t have a similar program? What is the opportunity cost? We are fine. We want to let farmers work within the General Plan.” CDD Molloy Previsich explained, “One way to look at this is we are presenting Phase Two of the Urban Limit Line. Under CEQA, the City has to look at ag land and now we have an even greater awareness of the impact of converting ag land to other uses. We have amassed a lot of information together with the pros and cons to each for the public and Commission to consider.

Commissioners Acevedo and Mueller, ~~both of whom~~ had been on the General Plan review committee provided a brief history of that process when the Consultant had said there would be approximately 300 acres of land needed for industrial and the parcels were identified as being on the southeast side of Town. “At the end of the General Plan review, a separate study to assess that area (the SEQ) and also a Greenbelt study for use as a buffer were agreed on. The City Council had consultants look at the area, then with a large group of about volunteers, complete the study” *Commissioner Acevedo said*. Commissioner Mueller was identified as having been a part of that study ~~as well~~.

Commissioner Acevedo said, “With the changing of the economy, so has the thinking of use in that area. Originally it was set up to have a big chunk of land at the SEQ for industrial.”

Commissioner Mueller recalled that the City leaders had felt a need to give an indication of what the City wanted to do with SEQ. He further reminded the Commission of the intense pressure over the years to divide the area into many lots. “If we do not say anything now, when a strong housing market returns, we will most likely get single family homes on large lots,” he said. So there is a true need for designation. It certainly behooves us to look into it.”

Commissioner Tanda said, “Seven of the nine speakers, addressed ag mitigation.

Ag mitigation fits into the SEQ. If the City wants to do something special, then ag mitigation may be essential. To me, I would like to have the City of Morgan Hill, Gilroy, and San Martin utilize this unique planning opportunity to retain the rural character of the area by developing a greenbelt between the three communities. The ag program could be one component to fit into a transitional area. The ag mitigation as written could help preserve ag land. We need to have a focus on the greenbelt around the three cities - and the County as well. It is possible to look to funding the greenbelt by getting some dollars from

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ag mitigation as well as looking to other sources of revenue. It would not be fair for private property owners to subsidize something like this. We should be working for the common purpose. I would like to have ag in Santa Clara County, but it is called Silicon Valley. Staff has formed an approach which, on one hand, is great. But I think it is a wrong approach. I think it better to have green areas between the three cities.” He then asked staff to consider his comments and ‘see what would be possible.’

Commissioner Mueller noted that there are policies in the South County Joint Area Plan to do what Commissioner Tanda suggests.

Commissioner Tanda interjected, “It would seem now is opportunity to implement some of these policies with funds generated for the purpose defined.”

At 9:45 p.m., Chair Escobar suggested continuing this matter to the next meeting to provide ‘think time’ for the Commissioners to review and formulate questions for the next meeting.

CDD Molloy Previsich said, “Because there are other items on April 8, 2008 agenda, which is full, we may not finish this discussion on that date, either. Commissioner Mueller asked, because of the importance of the issue if an alternative start time might need to be considered? Chair Escobar reminded that the Commissioners will still have two opportunities for consideration of recommendations before the City Council’s Special Meeting.

COMMISSIONERS MUELLER/ACEVEDO MOTIONED TO CONTINUE THE MATTER OF SOUTHEAST QUADRANT AND AGRICULTURAL MITIGATION POLICIES TO APRIL 8, 2008 AND HAVE THE MEETING COMMENCE AT 7:00 P.M. THE MOTION CARRIED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT; THERE IS ONE VACANCY.

Chair Escobar said the audience will be noticed with posting on the City’s web site and in the community bulletin affixed to the City Hall.

ANNOUNCEMENTS: None.

ADJOURNMENT: There being no further business, Chair Escobar declared the meeting adjourned at 9:50 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk